

District II Advisory Board Minutes

April 6, 2009

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The District II Advisory Board meeting was held at 7:00 p.m. at the Rockwell Branch Library, 5939 E. 9th Street North. CM Schlapp was in attendance, (9) board members attended, (6) staff and approximately (23) citizens were in attendance. Only those individuals who signed in are listed as guests below.

Members Present

Max Weddle
Larry Frutiger
David Mollhagen
Daryl Crotts
Phil Ryan
Tim Goodpasture
Brian Carduff
Marty Weeks
Sarah Devries
Allison Wegner-Youth Member

Members Absent

Joe Johnson
Aaron Mayes
Nick Pompeo- Youth Member

Staff Present

Antione Sherfield- Neighborhood Assistant
Chief Snow - Wichita Fire Department
Officer Bogle -Wichita Police Department
Mark Manning – Finance Department
Mark Stanberry - Housing Department
Bill Longnecker – Planning Department

Guests

Listed below

ORDER OF BUSINESS

CALL TO ORDER

The meeting was called to order at 7:05 p.m. CM Schlapp welcomed everyone and explained how the DAB meeting is conducted. DAB members did introductions. She advised the audience that she likes to receive feedback from her board on issues brought before them. The Board helps with decision making on very difficult issues but ultimately the City Council makes the final decisions.

APPROVAL OF MINUTES AND AGENDA

- April Agenda approved (9-0)
- March Minutes approved (9-0)

PUBLIC AGENDA

1. Off-Agenda Items

No items submitted.

STAFF REPORT

2. Community Police Report

Officer Bogle provided information pertaining to current crime trends in District II. Officer Bogle stated that the last couple of months they have saw an increase in Construction site burglaries. He stated that they will work with the public to try to detour this activity. He also stated that on March 15, 2009 the Community Policing Department conducted a Multi-Agency special assignment to investigate Drinking Establishments on the East side of town. They entered 12 Drinking Establishments. Only minor licensing violations were issued. Officer Bogle stated that the special assignment was a success.

CM Schlapp thanked Officer Bogle for the fine work that he and Police Department provides the community.

Recommended Action: Receive and file

3. Community Fire Report

Battalion Chief Snow provided information pertaining to Fire Service calls in District II. Chief Snow stated that there were 15 fires in District II during the month of February. Six of those fires were to structural buildings, the other nine were non-structural. There was 127 EMS calls during that month as well as 97 service calls. They have determined that out of the (6) structural fires (3) were accidental, (1) was intentional, and (2) are still under investigation. Chief Snow also stated that the Wichita Fire Department will be hosting a Citizen's Fire Academy. They will be teaching basic Fire Prevention procedures to individuals from the public. This event will take place May 5, 2009.

CM Schlapp applauded Chief Snow and Fire Department for the great services they provide our community.

Recommended Action: Receive and file

NEW BUSINESS

4. 2009 Budget Review

Mark Manning, Planning Department provided brief overview of 2009 Budget Revisions. **Mark** stated that the 2009 Budget is 6 ½ million out of balance for 2009. He attributed this to a slowdown in economic activity and a decrease in State Funds. Mark stated that the impact on Wichita began in the summer of 2008.

Dave Mollhagen, DAB Member asked if the 2010 Budget was worse.

Mark stated that 2010 could be worse but the Finance Department will have more flexibility to work with the budget.

CM Schlapp asked if City Employees should be concerned about potential layoffs.

Mark stated that layoffs would be a last resort but it wouldn't affect on-street response levels for public safety.

CM Schlapp stated that the DAB would review the information and have Mark return if there are questions concerning the 2009 Budget Revisions.

Recommended Action: Receive and file

5. **Request for Resolution of Support for Application for Housing Tax Credits (Gouverneur Manor Apartments).** **Mark Stanberry, Program Coordinator, Housing Department** presented information in reference to a Housing Tax Credit (HTC) Program administered by the Kansas Housing Resources Corporation.

The Housing Tax Credit (HTC) Program is administered by the Kansas Housing Resources Corporation. Enacted in the Tax Reform Act of 1986, the HTC Program is designed to secure private equity capital for the development of affordable rental housing. The Program can provide as much as 55%-60% of the total development cost which reduces the amount of debt financing in affordable rental housing developments. This allows lower rents and greater affordability. The State receives a tax credit allocation from the Federal government, and requires developers/owners to obtain a resolution of support from the local government, when submitting applications for financing through the Program.

The City has received a request from Builders, Inc. (Builders), for a City Council resolution of support for an application for Housing Tax Credits in connection with the renovation of the Gouverneur Manor Apartments.

Under the City's adopted Housing Tax Credit (HTC) policy, developers/owners must present proposed HTC projects to the applicable District Advisory Board (DAB). The policy also requires a review by the City's Development Coordinating Committee (DCC). The Planning Department and the Office of Central Inspection (OCI) also review the project for zoning and design appropriateness and provide comment regarding consistency with neighborhood plans, if applicable. Once the project is reviewed by the DAB, DCC, Planning and OCI, it is forwarded to the City Council for a public hearing, with a staff recommendation regarding the resolution of support for the HTC application.

Analysis: The proposed project involves renovation of the Gouverneur Manor Apartment complex, which is located at 7025 E. Lincoln. Builders, Inc. owns the apartment complex. According to the documentation submitted in connection with the request, the apartment complex will offer a total of 180 apartment units, consisting of four studio units, 94 one-bedroom units and 82 two-bedroom units. The project scope includes kitchen and bathroom upgrades, new energy-efficient heating and air conditioning systems, new vinyl windows and patio doors, new flooring, new light fixtures, and re-painting of the interior of each apartment. Exterior upgrades will include re-painting, parking lot repairs, new landscaping, roof repairs,

repair/upgrade of exterior siding, where necessary, and new balcony railings. There is also a plan to construct a new free standing office/clubhouse building with a laundry facility and fitness center. The new building will be compatible with the design of the existing buildings.

The City's HTC Policy requires a set-aside of 20% of the units for market-rate tenants. Builders intends to comply with this requirement, so the HTC affordability restrictions will apply to 144 units, with 36 units reserved for market-rate tenants. Monthly rent amounts for affordable units are estimated to be \$385 for the studio units \$430 for the one bedroom units, and \$520 for the two-bedroom units, net of utility allowances. The monthly rent amounts for market-rate units are estimated to be approximately the same.

The City's Office of Central Inspection (OCI) has reviewed the proposed project. OCI has indicated that the site is appropriately zoned ("B" Multifamily for the south half, and Limited Commercial for the north half). Under the Unified Zoning Code (UZY), additional parking capacity could be required, particularly if the new freestanding office/clubhouse is constructed, and could reduce existing parking availability. UZY minimum parking space requirements may be administratively reduced by up to 25% provided that an administrative adjustment application is submitted to the MAPD, with subsequent approval. Any reduction beyond 25% would require a request for a formal variance, which must be approved by the Board of Zoning Appeals, which would involve a public hearing.

OCI commented further, that if the permit value for the project exceeds 50% of the current value of the buildings on the site, that screening and landscaping per the UZY and Landscape Ordinance may also be required in the locations where the project borders "SF-5" zoning on the south and east. Along Gouverneur, the screening and landscaping requirement (south half of the property) could probably be met (per a UZY exemption for multifamily developments) with additional tree and shrub plantings, at least a third of which would be evergreen. A waiver/reduction to the basic Landscape Ordinance requirements may be administratively considered/approved by the City for existing developments. Along the south property line, solid screen fencing may be the only option, with some provisions for additional landscaping, most likely with a waiver or reduction in minimum landscaping requirements, as previously described.

Under the Americans with Disabilities Act Accessibility Guidelines (ADAAG), improvements will be required for proper access to common public facilities/common amenities, including accessible "path of travel", unless determined to be structurally and/or financially infeasible. In any event, barrier removal improvements will be required, to some degree. ADAAG-compliant parking (per the City's Building Code) must be installed. Due to the age of the apartment buildings, compliance with Fair Housing Act accessibility requirements for the apartment buildings/units will not be required.

Fire sprinkle ring will not be required, because the proposed interior modifications are not natural in nature.

Planning Department staff members concur that the property is properly zoned. Planning further noted that the site is subject to the regulations of Airport Overlay District (AOD) III North, which does not permit residential uses. However, since this use was established prior to the adoption of these regulations, the use will be allowed to continue.

The Housing and Community Services (HCS) believes that the proposed project will provide safe, clean affordable rental housing, and recommends approval of a recommendation for the adoption of a resolution of support by the City Council.

The resolution of support will not constitute final plan or design approval. If the project is awarded Housing Tax Credits, the project developer must comply with all requirements associated with appropriate plan reviews required for issuance of a City building permit. These reviews will include compliance with the City of Wichita's Housing Tax Credit Policy design guidelines. Further, the developer must comply with any additional reviews that may be requested by the City Council member in whose district the proposed project is planned.

Financial Considerations: The total project cost is estimated to be \$4,330,906. Rehabilitation and construction hard costs are estimated to be \$4,256,106. Financing includes proceeds from the sale of the HTC's. The City is not participating in the financing of the project.

Goal Impact: The proposed project contributes to the City Council goal of Economic Vitality and Affordable Living.

Becky Way, Agent stated that the dollars involved in the remodeling will be spent locally and the project will bring the complex into compliance with ADA regulations.

Dave Mollhagen, DAB Member asked if they would be replacing the entire sprinkler system in the complex.

Becky stated that they would replace in the hallways and update emergency lighting.

Recommended Action: The DAB voted (9-0) to approve the project.

6. **ZON2009-00011 Bill Longnecker, Planning Department** provided information in reference to a City Zone change from (GO) General Office to (LI) Limited Industrial, generally located southeast of the junction of Oak Knoll Street and Pawnee Avenue, approximately 1/3 east of Rock Road.

The applicant is requesting consideration for LI Limited Industrial ("LI") zoning for the GO General Office ("GO") zoned, 3.8-acre, undeveloped Lot 1, Block 1, Oak Knoll 3rd Addition. The applicant owns the western, abutting, 3.72-acre, LI zoned, Lot 1, Block A, Bray Lines 2nd Addition; recorded 6-19-1984. This abutting western property is developed as the applicant's contractor's yard; SCZ0493, "R-1" Suburban Residential to "E" Light Industrial, approved 11-04-1981. This contractor's yard has an office, warehouses/garages, outdoor storage of concrete forms, rebar, ties, fuel, chemicals, and, gravel, trucks, scoops, and other equipment and materials needed for the business of forming concrete walls and other concrete products. The proposed rezoning would allow the applicant to expand their business. The applicant has built a 6-8 foot masonry wall along the subject site's east and south sides. The applicant has also placed a 6-8 foot

masonry wall separating the subject site's north ¼ from the south ¾ of the site.

Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW Office – Warehouse (“OW”). Besides the applicant's LI zoned contractors yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential (“SF-5”) zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential (“MF-29”) zoned condo development (Oak Knoll Addition, recorded 10-31-1979) abuts the site's east side. The southern abutting residential development existed prior to the applicant's existing contractor's yard. There are MF-29 and TF-3 Duplex (“TF-3”, platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.

CASE HISTORY: The subject site was rezoned from “AA” One Family to “A” Two Family, subject to platting, August 14, 1979. The subject site was platted as Lot 1, Block 1, Oak Knoll Addition and recorded with the Register of Deeds October 31, 1979. The site was annexed into the City between 1971 and 1980. The site was rezoned from “R-6” General Residential to “BB” Office February 13, 1995. The BB zoning request was approved, with the observation that it would serve as a transitional zoning between the existing residential development on its south and east sides and the existing contractor's yard, gas storage businesses and other existing industrial uses west and north of it, along Rock Road and Oak Knoll Street. The site was replatted as the Oak Knoll 3rd Addition, recorded with the Register of Deeds July 29, 1999. Since subject site was first platted in 1979, it has never been developed.

ADJACENT ZONING AND LAND USE:

NORTH:	OW, MF-29, TF-3	Undeveloped, duplexes, self storage warehouse electrical substation
SOUTH:	SF-5, LI	Single-family residences, undeveloped,
EAST:	MF-29, SF-5	condos, single-family residences
WEST:	LI	contractors yard, school bus staging yard, gas storage tanks

Larry Frutiger, DAB Member asked how tall is the masonry wall.

Bill Longnecker stated that the 6 ft. wall splits the property.

Brian Carduff, DAB Member asked if there was direct access to Pawnee Street.

Bill Longnecker stated that there was direct access to Oak Knoll Street.

Brian Carduff stated this would increase traffic counts significantly.

Mark Savoy, Agent stated that the purpose of the City Zone change is to allow the Company the ability to store equipment indoor next to existing structure.

Cletus Clary, 1113 Post Oak Rd stated that there are quite a few people opposed to the

Zone change. He stated that there is early morning noise from the trucks, dust, and sand blowing across the walls. He also stated that their view is the contractors yard and that the potential Zone change is not compatible with the neighborhood.

Bobby Bell, 2405 S. Capri #205, stated that they purchased their unit not knowing the lot next door could be used for industrial use. He also stated that he didn't have anything against the contractors but wanted the area to continue to be neighborhood friendly.

Patti Moser, 2405 S. Capri #404, states she complained about the dirt mounds at the site but nothing was done. She also states that there is not enough buffer between the two for both of them to get alone.

Roger Sinclair, 2405 S. Capri #501, states he is the oldest resident in the complex and has mixed feelings about the entire situation. He also stated that they are the best neighbors they have ever had.

Jeff Farrow, 2405 S. Capri #702, stated that he has resided at the location for 25 years. He states that the residents are not able to utilize the community pool because of the dirt and sand that is blowing over the wall.

Kent Webber, Beran Properties stated that they try to have the trucks in and out of the yard at a reasonable time to where it doesn't impact the community. He stated that if there are problems he welcomes anyone to contact him directly.

Brian Carduff asked if the contractor would consider raising the wall.

Kent Webber, Beran Properties, stated that the 15 ft. dirt pile will be removed as soon as possible.

Shirley Luber, 2405 S. Capri # 403 states that she can see all of the equipment from the unit, and this is an eye sore for the community.

David Mollhagen, read the following statement:

Is the property owner receiving "Just Compensation"? Partial Taking - If the taking is of part of a piece of property, such as the condemnation of a strip of land to expand a road, the owner should be compensated both for the value of the strip of land and for any effect the condemnation of that strip has on the value of the owner's remaining property.

"Taking" means the use by any authorized entity of the power of eminent domain to acquire any interest in private real property Kansas Statutes

If not, could this be an abuse of Eminent Domain?

U.S. Constitution, Amendment V. "... nor shall private property be taken for public use without just compensation." - -

U.S. Constitution: Fourteenth Amendment

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the

United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Eminent domain is not the only way that private property can be acquired by government. Placing restrictions on the land by law or regulation can also be a taking that warrants just compensation.

Recommended Action: The DAB members voted (9-0) to approve the Planning Department's recommendation subject to the following changes:

- **Height of materials storage 8ft.**
- **Landscaping - increase density**
- **Limited access**
- **Dedication of Right of Way - remove without negotiating compensation**
- **Any limited manufacturing is to be conducted indoors**
- **No machine shop to be allowed**

7. **CUP2009-0004 Bill Longnecker, Planning Department** provided information in reference to a City DP-213 Amendment #1 to allow nurseries and garden center on property zoned (LC) Limited Commercial, generally located on the southeast corner of 21st Street North and Webb Road.

The applicant proposes Amendment #1 to DP-213 Hanley Commercial Community Unit Plan to allow a nursery and garden center on the northern portion of Parcel 2, as shown on the attached site plan. The nursery and garden center would be operated for six months per year and require a dedicated area of approximately 2/3 acre from Parcel 2, when including the parking spaces necessary for the use. The applicant also requested the ability to locate the property on Parcel 1 but did not provide a specific site plan associated with this location. The property is zoned LC Limited Commercial ("LC").

The proposed use is for a nursery and garden center with two aluminum frame structures up to 5,000 square feet in size combined with shade material on top, for display of merchandise. More plants and items for sale would be displayed in the open area in front of the aluminum structure. The total footprint of the area is approximately 9,600 square feet. This does not include the required parking stalls to compliment the nursery and garden center use. Calculated at the standard rate of four spaces per 1,000 square feet of gross leasable area (and open display areas for nursery and garden centers are calculated at this rate or, at the discretion of MAPC, at a higher rate), the required parking for the nursery and garden center would be about 39 spaces. Altogether, the total land area for the use would be approximately 2/3 acre. The application is for the maximum time length for a temporary structure per the building code of six months, April 15 through October 15. Restroom facilities are required for employees. The lessee could obtain a lease from an inline space or an agreement from one inline store in close proximity to the site to provide these facilities.

Other components are delivery and unloading spaces, screening of outdoor work and storage areas, etc. Carts for unloading plant materials should be kept to a minimum and empties stored in the rear of the inline buildings. Any outdoor storage areas (by the main use or behind the inline buildings) would have to be screening per the Unified Zoning Code for outdoor work and storage areas.

Keeping the structures off of setbacks would require a shifting of the site plan, since the structure is shown as 20 feet from the right-of-way line, which violates the 35-foot setback of the CUP.

Existing uses within the CUP include two restaurants, several retail businesses and personal service businesses in the main inline buildings. A freestanding restaurant is located directly west of the proposed nursery and garden center site on Parcel 2. A vacant parcel in the CUP abuts the site on the east. The entire CUP is zoned LC. The property to the east of the CUP is a large apartment project zoned B Multi-Family Residential ("B"). The property to the south is a large senior living project zoned GO General Office ("GO") and a bank on property zoned LC. The property to the north is a bank, a restaurant and vacant land, all zoned LC.

CASE HISTORY: The property is platted as Hanley Commercial Addition, recorded August 29, 1995. DP-213 Hanley Commercial Community Unit Plan was approved October 18, 1994.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Bank, restaurant, vacant
SOUTH:	LC,GO	Shopping center, restaurant, senior living project, bank
EAST:	LC, B	Vacant, apartments
WEST:	LC	Shopping center tenants

Recommended Action: The DAB members voted (9-0) to approve the Planning Department's recommendation.

With no further business, the meeting was adjourned at 8:30 p.m. The next DAB II Meeting will be May 4th 2009.

Respectfully Submitted,
Antione Sherfield, Neighborhood Assistant

Guest

Mark Savoy	Mary Espuivel
Kent Webber	Tim Case
Roger Sinclair	Zane and Neives Day
Pat Lormay	Bobby and Malaika Bell

Cletus Clary
Pamela Pina
Shirley Luber
Becky Way
Jeff Farrell
Fred Hanley
Stehenson Bascombe
Michelle Conor
John Le May
Patti and Paul Mover
Tonya Atta
Chad Duerksent
Paula Hancock

Dwight Aldrich